IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 23782 of 2004

Between:

1 Smt.S.Maruthi Bai, w/o late S.Padma Rao,
R/o H.No.1-107/1, Vaninagar, Malkajgiri, Hyderabad.
2 S.Krupakar, s/o late S.Padma Rao,
R/o H.No.1-107/1, Vaninagar, Malkajgiri, Hyderabad.

... PETITIONERS

AND

1 The Commissioner, Malkajgiri Municipality,
Malkajgiri, Ranga Reddy District.
2 Town Planning Officer, Malkajgiri Municipality,
Malkajgiri, Ranga Reddy District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, one in the nature of writ of mandamus i) declaring the action of the respondents in interfering with the day to day construction of the building by the petitioners, through the Gana Sai Constructions, in Plot No.30 in Sy.No.886, situated at Vaninagar, Malkajgiri Municipality, R.R.District as arbitrary, illegal, unreasonable, violative of principles of natural justice and violative of Article 14, 21 & 300-A of Constitution of India and contrary to the provisions of the A.P.Municipalities Act, ii) costs be awarded and pass such other order or orders

Counsel for the Petitioner: MR.B.MAHENDER REDDY

Counsel for the Respondents: MR.POLISETTI RADHAKRISHNA

The Court, at the admission stage, made the following:

ORDER:

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents, and with their consent, the writ petition itself is disposed of at the admission stage.

2. Petitioners claim that they are the absolute owners and possessors of the Plot No.30 in Sy.No.886, to an extent of 280 Sq. yards situated at Vaninagar, Malkajgiri. Petitioners, with an intention to construct building in the said land, submitted an application to the first respondent on 11-09-2004 for grant of building permission. It is stated after verification of the said application, first respondent granted residential building permission and approved the plan vide Permission No.G2/816/2004 dated 16-10-2004 and the petitioners are proceeding with the construction as per the permission granted to them.

3. While so, respondents, alleging that petitioners deviated from the permission granted to them, issued notices under Sections 228 (1), 228 (2) and 217 of the A.P. Municipalities Act (for short 'the Act') to stop the construction being made. It is alleged that in spite of the said notices issued to the petitioners, they are proceeding with the construction. On the other hand, petitioners submit that they have not deviated from the building permission accorded to them.

4. Having regard to the facts and circumstances of the case, the petitioners are at liberty to submit explanation to the said notices issued by the respondents within a period of three weeks from today

and the respondents are at liberty to consider the same and pass appropriate orders thereafter.

5. In the meanwhile, if the petitioners are making construction in deviation of the approved plan, it is always open for the respondents to take appropriate action against the petitioners, and take steps for their removal and recover the expenditure that may be incurred by them towards removal of the unauthorized construction, if any, being made by the petitioners.

The writ petition is accordingly disposed of at the admission stage.

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N.V. RAMANA, J

December 21, 2004

MRR/NSR

Copy to:

1 The Commissioner, Malkajgiri Municipality,
Malkajgiri, Ranga Reddy District.
2 Town Planning Officer, Malkajgiri Municipality,
Malkajgiri, Ranga Reddy District.

3 Two C.D. copies.